

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

KEVIN and SHERRIE LEGENDRE,)	Case No.:
	}	
Plaintiffs,	}	COMPLAINT AND DEMAND FOR JURY TRIAL
	}	
v.)}	(Unlawful Debt Collection Practices)
REDLINE RECOVERY SERVICES,)	
LLC,	}	
	}	
Defendant	}	

COMPLAINT

KEVIN and SHERRIE LEGENDRE (“Plaintiffs”), by and through their attorneys, KIMMEL & SILVERMAN, P.C., allege the following against REDLINE RECOVERY SERVICES, LLC (“Defendant”):

INTRODUCTION

1. Plaintiffs' Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising
2 under the laws of the United States.

3 3. Defendant conducts business in the State of New Hampshire;
4 therefore, personal jurisdiction is established.

5 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

6
7 **PARTIES**

8 5. Plaintiffs are natural people residing in Laconia, New Hampshire
9 03246.

10 6. Plaintiff Kevin Legendre is a “consumer” as that term is defined by 15
11 U.S.C. § 1692a(3).

12 7. Plaintiff Sherrie Legendre is a person granted a cause of action under
13 the FDCPA. See 15 U.S.C. §1692k(a) and Weinrich v. Cole, 2000 U.S. Dist.
14 LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

15 8. Defendant is a debt collection company with principal office located
16 at 95 John Muir Drive, Suite 100, Amherst, New York 14228 and having another
17 business location at 5959 Corporate Drive, Suite 1400, Houston, Texas 77036.

18 9. Defendant is a debt collector as that term is defined by 15 U.S.C. §
19 1692a(6), and repeatedly contacted Plaintiffs in its attempts to collect a debt.
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1 10. Defendant acted through its agents, employees, officers, members,
2 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
3 representatives, and insurers.
4

5 **FACTUAL ALLEGATIONS**

6 11. At all relevant times herein, Defendant was attempting to collect a
7 consumer debt and repeatedly contacted Plaintiffs in its attempts to collect that
8 debt.
9

10 12. The alleged debt, a Sallie Mae student loan for their son, Tyler
11 (hereinafter “the Account”), arose out of transactions which was primarily for
12 personal, family, or household purposes. Plaintiff Kevin Legendre is a co-signor
13 on the student loan.
14

15 13. The Account went into default with Sallie Mae. After the Account
16 went into default, the Account was placed or otherwise transferred to Defendant
17 for collection.
18

19 14. The Plaintiffs’ son, Tyler, is twenty-eight (28) years old and does not
20 receive mail or reside at the Plaintiffs’ residence.

21 15. Beginning in April 2012, and continuing through July 2012,
22 Defendant repeatedly and continuously contacted Plaintiffs on their cellular
23 telephone in its attempts to collect the debt.
24
25

1 16. Defendant contacted Plaintiffs, on average, one (1) to two (2) times a
2 day, causing Plaintiffs to receive more than ten (10) collection calls a week.

3 17. In addition, in those instances where Defendant was unable to speak
4 with Plaintiffs, it would leave voicemail messages.

5 18. On one occasion, Plaintiff Sherrie Legendre answered Defendant's
6 call. In its conversation with Plaintiff Sherrie Legendre, Defendant threatened that
7 it "would take forcible recovery" if Plaintiff Kevin Legendre did not pay the
8 alleged debt.
9

10 19. Defendant's representations to Plaintiff Sherrie Legendre about taking
11 "forcible recovery" if the debt was not paid, had the effect of conveying to an
12 unsophisticated consumer that an imminent lawsuit was to be filed against Plaintiff
13 Kevin Legendre relative to the Account and/or that they were going to take
14 physical action against him.
15

16 20. As of the date of this filing, Defendant has not filed a lawsuit against
17 Plaintiff Kevin Legendre for the Account.
18

19 21. Further, despite the threat, Defendant has not physically harmed or
20 taken physical action against Plaintiff Kevin Legendre.
21

22 22. Upon information and belief, at the time of making the
23 aforementioned threat to Plaintiff Sherrie Legendre, Defendant had no intention of
24 filing a lawsuit against Plaintiff Kevin Legendre for the Account or to take
25

1 physical action against him.

2 23. Upon information and belief, Defendant has no authority to file a
3 lawsuit against Plaintiff Kevin Legendre for the Account.
4

5 24. Upon information and belief, Defendant did not have authority to file
6 a lawsuit against Plaintiff Kevin Legendre for the Account.

7 25. Upon information and belief, at the time of making the
8 aforementioned threat to Plaintiff Sherrie Legendre, Defendant did not have any
9 employees that were licensed to practice law in the State of New Hampshire.
10

11 26. Additionally, in its communications with Plaintiff Kevin Legendre,
12 Defendant threatened to take him to Court if he did not make payment on the debt.
13

14 27. Defendant's representations to Plaintiff Kevin Legendre about taking
15 "him to Court" if he did not pay the debt, had the effect of conveying to an
16 unsophisticated consumer that an imminent lawsuit was to be filed against Plaintiff
17 Kevin Legendre relative to the Account.
18

19 28. Again, Defendant has not filed a lawsuit against Plaintiff Kevin
20 Legendre for the Account.

21 29. Once again, upon information and belief, Defendant had no intention
22 of filing a lawsuit against Plaintiff Kevin Legendre for the Account.
23

24 30. Upon information and belief, Defendant has no authority to file a
25 lawsuit against Plaintiff Kevin Legendre for the Account.

1 31. Upon information and belief, Defendant did not have authority to file
2 a lawsuit against Plaintiff Kevin Legendre for the Account.

3 32. Upon information and belief, Defendant did not have any employees
4 that were licensed to practice law in the State of New Hampshire.

5 33. Defendant's actions in attempting to collect this alleged debt were
6 abusive, harassing, deceptive and unfair.
7
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9

10 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**
11 **ACT**
12 **COUNT I**

13 34. Defendant's conduct, as detailed in the preceding paragraphs,
14 violated 15 U.S.C. §§1692d, 1692d(1), and 1692d(5).

15 a. Section 1692d of the FDCPA prohibits a debt collector from
16 engaging in conduct the natural consequence of which is to harass,
17 oppress, or abuse any person in connection with the collection of a
18 debt.
19

20 b. Section 1692d(1) of the FDCPA prohibits the use or threat of use
21 of violence or other criminal means to harm the physical person,
22 reputation, or property of any person.
23

24 c. Section 1692d(5) of the FDPCA by causing a telephone to ring or
25 engaging any person in telephone conversation repeatedly or

1 continuously with intent to annoy, abuse, or harass any person at
2 the called number.

- 3
4 d. Here, Defendant violated §§1692d, 1692d(1) and 1692d(5) of the
5 FDCPA by calling Plaintiffs on their cellular telephone multiple
6 times a day, several days each week, having the intent to annoy,
7 abuse and harass Plaintiffs as well as threatening to take physical
8 action against Plaintiff Kevin Legendre.
9

10 **COUNT II**

11 35. Defendant's conduct, as detailed in the preceding paragraphs,
12 violated 15 U.S.C. §§1692e, 1692e(2)(A), 1692e(5) and 1692e(10).
13

- 14 a. A debt collector violates §1692e of the FDCPA by using false,
15 deceptive or misleading representations or means in connection
16 with the collection of any debt.
17
18 b. A debt collector violates §1692e(2)(A) of the FDCPA by falsely
19 representing the character, amount or legal status of any debt.
20
21 c. A debt collector violates §1692e(5) of the FDCPA by threatening
22 to take any action that cannot legally be taken or that is not
23 intended to be taken.
24
25 d. Section 1692e(10) of the FDCPA prohibits debt collectors from
using any false representations or deceptive means to collect or

1 attempt to collect any debt or to obtain information concerning a
2 consumer.

3 e. Here, Defendant violated §§1692e, 1692e(2)(A), 1692e(5) and
4 1692e(10) of the FDCPA by representing that it had filed suit or
5 intended to file suit against Plaintiff Kevin Legendre, when it did
6 not intend to take such action.
7

8
9 **COUNT III**

10 36. Defendant's conduct, as detailed in the preceding paragraphs,
11 violated 15 U.S.C. §1692f.

12 a. A debt collector violates §1692f of the FDCPA by using unfair or
13 unconscionable means to collect or attempt to collect any debt.

14 b. Here, Defendant violated §1692f of the FDCPA engaging in other
15 unfair and unconscionable debt collection practices, including
16 threatening physical harm towards Plaintiff Kevin Legendre.
17

18
19 WHEREFORE, Plaintiffs, KEVIN AND SHERRIE LEGENDRE,
20 respectfully pray for a judgment as follows:

21 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);

22 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
23 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
24
25

- 1 c. All reasonable attorneys' fees, witness fees, court costs and other
2 litigation costs incurred by Plaintiffs pursuant to 15 U.S.C. §
3 1693k(a)(3); and
4
5 d. Any other relief deemed appropriate by this Honorable Court.
6

7 **DEMAND FOR JURY TRIAL**
8

9 PLEASE TAKE NOTICE that Plaintiffs, KEVIN and SHERRIE
10 LEGENDRE, demand a jury trial in this case.
11

12 RESPECTFULLY SUBMITTED,
13

14 PLAINTIFFS, KEVIN AND SHERRIE
15 LEGENDRE

16 Date: March 12, 2013

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